

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

| | | |
|-----------------------|---|--------------|
| YA JELANI SIMBA, |) | |
| |) | |
| Plaintiff, pro se, |) | |
| |) | |
| v. |) | ORDER |
| |) | |
| WENDY BRANCH, et al., |) | 1:07CV712 |
| |) | |
| Defendants. |) | |

On March 27, 2008, in accordance with 28 U.S.C. § 636(b), the Recommendation of the United States Magistrate Judge was filed, and notice was served on the parties, and a copy was given to the court.

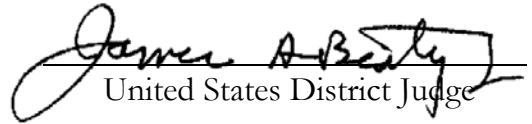
Within the time limitation set forth in the statute, Plaintiff objected to the Recommendation.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court hereby adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that Defendants' motion to dismiss (Docket No. 16) be **GRANTED** and Plaintiff's complaint is **HEREBY DISMISSED** as frivolous or for failure to state a claim. 28 U.S.C. § 1915(g).

FURTHERMORE, the court **HEREBY TAKES JUDICIAL NOTICE** that this is Plaintiff's third strike under 28 U.S.C. § 1915(g). In any subsequent lawsuits brought

by Plaintiff, he will be required to first pay the prefiling fee unless he can show that he is under imminent danger of serious physical injury. A judgment dismissing this action will be entered contemporaneously with this Order.


United States District Judge

June 17, 2008